

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Criminal No. 11-305(22) (DSD/LIB)

United States of America,

Plaintiff,

v.

ORDER

Caine Ramus Starks,

Defendant.

Andrew S. Dunne, United States Attorney's Office, 300 South 4th Street, Suite 600, Minneapolis, MN 55415, counsel for plaintiff.

Caine Ramus Starks, #16078-041, USP-Marion, P.O. Box 1000, Marion, IL 62959, defendant pro se.

This matter is before the Court on two motions of defendant Caine Ramus Starks. First, Starks requests permission to appeal the court's previous order denying a reduction in sentence under 18 U.S.C. § 3582(c)(2). That request is unnecessary. Starks need not obtain a certificate of appealability or otherwise seek permission from this court in order to appeal the denial of his earlier motion for a reduction in sentence. Accordingly, Starks's motion for permission to appeal is denied as moot.¹

Second, Starks requests permission to file a second or successive motion challenging his sentence under 28 U.S.C. § 2255.

¹ In his motion, Starks also requests appointment of counsel for any appellate proceedings. Starks may direct his request to the Eighth Circuit Court of Appeals upon filing a notice of appeal.

See 28 U.S.C. § 2255(h). Starks has never previously filed a motion for relief under § 2255 in these proceedings. Thus, if Starks files a motion under § 2255, that motion will be a first motion for relief under § 2255, not a second or successive motion. No permission from any court is needed to file a first motion for relief under § 2255. Accordingly, this request is also denied as moot.²

CONCLUSION

Based on the foregoing, and on all of the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. The motion to appeal [ECF No. 1280] is denied as moot; and

2. The motion to file a second or successive motion for relief under 28 U.S.C. § 2255 [ECF No. 1330] is denied as moot.

Dated: May 6, 2016

s/David S. Doty
David S. Doty, Judge
United States District Court

² To be clear, Starks may seek relief under § 2255 despite the denial of his motion.